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Senators Kim Thatcher & Suzanne Weber;
Reps. Bobby Levy & Werner Reschke

Dear Senator Thatcher, et. al.,

I would first like to thank you for taking up this effort to ensure evenhanded delivery of justice for parents who share children, and more importantly, the children they share. Upon reviewing the text of Senate Bill 385 (SB385), I have some suggestions and concerns about the amended punishments associated with false claims of child abuse, which are: (a) the disparity between punishment for someone filing a false claim and the punishment that may be sentenced against someone found guilty of this claim; (b) the classification of both first and second offenses as equal crimes, when a second occurrence would show tactical efforts to discredit a parent who deserves equal protection under the law; (c) the lack of mandatory minimum sentencing for this craven and dishonest behavior, when juxtaposed against the potential and unfortunately likely outcomes for people against whom child abuse charges are filed; and finally, (d) allowing for someone of more substantial means to weaponize these soft punishments for their own potential gains or purposes. I will delineate these concerns below, and I urge you all, as sponsoring legislators, to take into consideration these changes.

I will begin by saying that I write this not as someone who relishes in seeing justice exacted through court system; quite to contrary, I find our national criminal justice system, especially our prison system, to be embarrassing to our posturing as the greatest nation on Earth. That said, I believe that punishments and statutes are most effective when they are written from a place of integrity, seeking outcomes that compel rather than coerce residents of the State to be honest and responsible in their dealings. It is from this belief in equal justice that I suggest the amendments of SB385 do not extend enough culpability to the criminal described therein, and I worry that passage of this bill as written will have a chilling effect on further efforts to hold bad actors accountable for their harmful and deceptive claims of child abuse.

(a) the disparity between punishment for someone filing a false claim and the punishment that may be sentenced against someone found guilty of this claim

I take issue with the unequal risk and damage to one's personal life and affairs that come from the two sets of standards. It is easy to assume that these laws, if enacted, would most directly affect adults who are attempting to influence custodial decisions, most plainly two parents who are separating. It is common knowledge that these situations are often tense and adversarial. If one parent (A) decides to falsely accuse the other (B) of child abuse, Parent A will almost immediately reap the spoils of their dishonesty, given that the Department of Human Services (DHS) is likely to take action to keep the child away from Parent B. Should the false nature of the claim come to light, there is no guarantee that DHS or any other authority would act to restore custody rights to Parent B. And, given that this would have to be decided by the courts, it could well be longer than a year that Parent B is denied normal access to their child; yet the *maximum* punishment to Parent A, who started this problem for their own gains, is 364 days as defined by ORS 161.615 (1). It does not take a great imagination to conceive of a situation where one parent might "game" their chances by lobbing these accusations at the other in an attempt to gain time with the child, perhaps permanently.

It is important here to note that Oregon has an astronomically high number of people considered sex offenders as compared to the other 49 states, by one count more than three times as many. (Koin News) Whatever the systemic causes of this phenomenon may be, the fact remains that in Oregon, by this measure, someone is three times as likely to be convicted of a crime of this class, making the dangers to someone who is wrongfully accused of child abuse much higher.

(b) the classification of both first and second offenses as equal crimes

In tandem with my belief that these harsh accusations of child abuse should carry with them a greater punishment for dishonesty, I also take umbrage with the idea that only upon the third instance is the crime classified as a Class C felony. Who, besides the perpetrator of these claims, is benefited by allowing a second instance to carry as light of a punishment? What civic virtue upholds this second chance, which seems less like a punishment and more like an invitation to try again a second time? What if a parent, let's say for example a mother, has multiple children with multiple fathers, and fails to secure custody as she desires, and then reports child abuse charges against both fathers, and one of them holds? This mother has gotten exactly what she set out for, and has now a third opportunity to take this course of action for

her own selfish gain, as she hasn't used her second "strike" and is, at most, liable for a fine and 364 days of imprisonment.

(c) the lack of mandatory minimum sentencing for this craven and dishonest behavior

I take the above example and continue with this concern: it is entirely feasible and easily imagined that this mother, succeeding in her defamatory pursuit against one father, has been given a light punishment for this charge; it bears mentioning that the standard for what makes a report false versus valid could sway a judge or jury to see her crime as only rising to the standard of *de minimis non curat lex*. Meanwhile, one father is serving a mandatory sentence, and the other is left to undo the legal maneuvering of being wrongfully accused.

(d) allowing for someone of more substantial means to weaponize these soft punishments for their own potential gains or purposes

I would also draw your attention to the frequency with which two people parenting together have dramatically different income levels, and the role that can play in a subsequent separation. If one parent has a significantly larger safety net of assets and funds, whereas the other is left struggling from the separation, how does this law create equal justice for the less privileged parent? The parent with greater means could more easily absorb even the maximum penalty of \$6,250, again, assuming a judge would impose this maximum. It is no stretch, however, to envision the kind of torment and unrest that the less privileged parent would endure from this gambit, already dealing with the tedium of a separation, loss of stability, change of homes, etc., and now tasked with proving innocence and likely under the duress of the child being withheld from them until a decision is reached.

In conclusion, I would again ask that the text of this bill be reconsidered. To leave this text as written is to continue to not only encourage a parent from crying wolf over their child's wellbeing; it is to outright encourage it, leaving such little guaranteed consequence as compared to the severity of being convicted of actual child abuse. There is no room in Oregon or any state's legal system, already strained, to be the venue for inter-spousal theatre. This sort of behavior shows a distinct lack of integrity and a willingness to exact revenge and irreparable harm on someone, and as such it should be treated with similar severity as the very act of child abuse itself. I would argue that unjustly robbing a child of time with one parent is, via abandonment, its own form of child abuse. This is an issue that is near to my heart because of events that have taken place in my own family. I please ask that this bill be reconsidered.

Sincerely yours,

Jonathan Shewell